

AMENDED IN SENATE AUGUST 4, 2014

AMENDED IN SENATE JULY 1, 2014

AMENDED IN SENATE JUNE 12, 2014

AMENDED IN ASSEMBLY MAY 27, 2014

AMENDED IN ASSEMBLY MAY 7, 2014

AMENDED IN ASSEMBLY APRIL 21, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1594

Introduced by Assembly Member Williams

February 3, 2014

An act to amend Section 41781.3 of the Public Resources Code, relating to solid waste.

LEGISLATIVE COUNSEL'S DIGEST

AB 1594, as amended, Williams. Solid waste: recycling: diversion: green material.

The California Integrated Waste Management Act of 1989, which is administered by the Department of Resources Recycling and Recovery, establishes an integrated waste management program. The act requires each city, county, and joint powers authority formed under the act, referred to as a regional agency, to develop a source reduction and recycling element of an integrated waste management plan. The act requires the source reduction and recycling element to divert from disposal 50% of all solid waste subject to the element through source reduction, recycling, and composting activities, with specified exceptions. Under the act, the use of solid waste for beneficial reuse in

the construction and operation of a solid waste landfill, including the use of alternative daily cover, constitutes diversion through recycling and is not considered disposal.

This bill, commencing January 1, 2020, would provide that the use of green material, as defined, as alternative daily cover does not constitute diversion through recycling and would be considered disposal for purposes of the act. The bill, commencing August 1, 2018, would require a local jurisdiction to include information in an annual report on how the local jurisdiction intends to address these diversion requirements and divert green material that is being used as alternative daily cover. The bill would require ~~the department, with respect to a jurisdiction that, as a result of these provisions, would not be able to~~ *that does not* meet certain diversion requirements, ~~to determine whether the local jurisdiction has made a good faith effort to divert green material that was used as alternative daily cover, based on consideration of specified circumstances. The bill would require those local jurisdictions~~ *requirements as a result of not being able to claim diversion for the use of green material as alternative daily cover to identify and address, in an annual report, barriers to siting new or expanded green material recycling facilities and recycling green material and, if sufficient capacity at facilities that recycle green material is not expected to be operational before a certain date, to prepare* include a plan to address those barriers. The bill would impose a state-mandated local program by imposing new duties upon local agencies with regard to the diversion of solid waste.

Existing law requires the operator of a disposal facility to pay a quarterly fee based on the amount of solid waste disposed of at each disposal site.

This bill would provide that, commencing January 1, 2020, green material used as alternative daily cover at a solid waste landfill is not subject to this fee.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

SECTION 1. Section 41781.3 of the Public Resources Code is amended to read:

41781.3. (a) (1) Except as provided in ~~paragraphs (2) and (4)~~ *paragraph (2)*, the use of solid waste for beneficial reuse in the construction and operation of a solid waste landfill, including use of alternative daily cover, which reduces or eliminates the amount of solid waste being disposed pursuant to Section 40124, shall constitute diversion through recycling and shall not be considered disposal for purposes of this division.

(2) (A) Commencing January 1, 2020, the use of green material as alternative daily cover does not constitute diversion through recycling and shall be considered disposal for purposes of this division.

(B) *Commencing January 1, 2020, a local jurisdiction that, as a result of not being able to claim diversion for the use of green material as alternative daily cover, does not meet the requirements of Section 41780 shall, in the next annual report required pursuant to Section 41821, identify and address barriers to recycling green material and, if sufficient capacity at facilities that recycle green material is not expected to be operational before the jurisdiction's next review pursuant to Section 41825, include a plan to address those barriers that are within the control of the local jurisdiction.*

~~(B)~~
(C) Commencing January 1, 2020, green material used as alternative daily cover at a solid waste landfill is not subject to the fee imposed on disposed solid waste pursuant to Section 48000.

(3) Commencing August 1, 2018, a local jurisdiction shall include in the electronic annual report required pursuant to Section 41821 information on how the local jurisdiction intends to address the requirements of *subparagraph (A) of paragraph (2)* and divert green material that is being used as alternative daily cover.

~~(4) (A) If, after January 1, 2020, a local jurisdiction will no longer be in compliance with Section 41780 as a result of using green material as alternative daily cover, the department, pursuant to Section 41825, shall make a determination whether the local jurisdiction has made a good faith effort to divert green material that was used as alternative daily cover, based on consideration of~~

1 ~~circumstances that shall include, but are not limited to, all of the~~
2 ~~following:~~

3 ~~(i) Existing green material facilities within a reasonable vicinity~~
4 ~~of the local jurisdiction and the permitted capacities for materials~~
5 ~~to be accepted at each facility.~~

6 ~~(ii) Efforts that the jurisdiction is aware of that are underway~~
7 ~~to develop new private or public regional green material recycling~~
8 ~~facilities that may become available to accept the green material~~
9 ~~being used as alternative daily cover, and the expected timeframe~~
10 ~~for completion.~~

11 ~~(iii) Facilities for potential expansion or collocation.~~

12 ~~(iv) Closed or abandoned sites within the jurisdiction that might~~
13 ~~be available for use as new green material recycling facilities.~~

14 ~~(v) Other nondisposal opportunities and markets.~~

15 ~~(vi) Applicable zoning and permit requirements within the~~
16 ~~jurisdiction for the location of new green material recycling~~
17 ~~facilities.~~

18 ~~(vii) Incentives available for developing new green material~~
19 ~~recycling facilities.~~

20 ~~(viii) Steps being taken by the jurisdiction to reduce solid waste~~
21 ~~generation or to identify new methods for diverting green or other~~
22 ~~solid waste to meet the requirements of Section 41780.~~

23 ~~(B) A local jurisdiction subject to paragraph (A) shall, on a~~
24 ~~schedule determined by the department, identify barriers to siting~~
25 ~~new or expanded green material recycling facilities, and if~~
26 ~~sufficient green material recycling facility capacity is not expected~~
27 ~~to be operational within a reasonable amount of time, prepare a~~
28 ~~plan to address those barriers that are within the control of the~~
29 ~~local jurisdiction.~~

30 ~~(b) Before December 31, 1997, pursuant to the department's~~
31 ~~authority to adopt rules and regulations pursuant to Section 40502,~~
32 ~~the department shall, by regulation, establish conditions for the~~
33 ~~use of alternative daily cover that are consistent with this division.~~
34 ~~In adopting the regulations, the department shall consider, but is~~
35 ~~not limited to consideration of, all of the following criteria:~~

36 ~~(1) Those conditions established in past policies adopted by the~~
37 ~~department affecting the use of alternative daily cover.~~

38 ~~(2) Those conditions necessary to provide for the continued~~
39 ~~economic development, economic viability, and employment~~
40 ~~opportunities provided by the composting industry in the state.~~

1 (3) Those performance standards and limitations on maximum
2 functional thickness necessary to ensure protection of public health
3 and safety consistent with state minimum standards.

4 (c) Until the adoption of additional regulations, the use of
5 alternative daily cover shall be governed by the conditions
6 established by the department in its existing regulations set forth
7 in paragraph (3) of subdivision (b) of, and paragraph (3) of
8 subdivision (c) of, Section 18813 of Title 14 of the California Code
9 of Regulations, as those sections read on January 1, 1997, and by
10 the conditions established in the department's policy adopted on
11 January 25, 1995.

12 (d) In adopting rules and regulations pursuant to this division,
13 including, but not limited to, Part 2 (commencing with Section
14 40900), the department shall provide guidance to local enforcement
15 agencies on any conditions and restrictions on the utilization of
16 alternative daily cover so as to ensure proper enforcement of those
17 rules and regulations.

18 (e) Notwithstanding subparagraph (B) of paragraph (4) of
19 subdivision (a), nothing in this section modifies, limits, or abrogates
20 the authority of a local jurisdiction with respect to land use, zoning,
21 or facility siting decisions within that local jurisdiction.

22 (f) For purposes of this section, "green material" has the same
23 meaning as "processed green material," as defined in subdivision
24 (b) of Section 20690 of Title 27 of the California Code of
25 Regulations. The term does not include materials left over from
26 the composting process, materials left over after the material
27 recovery process, commonly referred to as "fines," or processed
28 construction and demolition waste materials.

29 (g) For purposes of this section, "processed construction and
30 demolition waste material" has the same meaning as defined in
31 subdivision (b) of Section 20690 of Title 27 of the California Code
32 of Regulations.

33 SEC. 2. No reimbursement is required by this act pursuant to
34 Section 6 of Article XIII B of the California Constitution because
35 a local agency or school district has the authority to levy service
36 charges, fees, or assessments sufficient to pay for the program or
37 level of service mandated by this act, within the meaning of Section
38 17556 of the Government Code.

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